

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION

AMERICAN ZURICH INSURANCE  
COMPANY

PLAINTIFF

v.

Civil Action No. 4:21-cv-00155-GHD-DAS

TOMMIE FAIRLEY

DEFENDANT

ORDER AND JUDGMENT GRANTING COMPLAINT  
FOR DECLARATORY JUDGMENT

On November 22, 2021, the Plaintiff filed a complaint against the Defendant, seeking a declaratory judgment regarding a Builders Risk Policy, denoted Zurich Policy No. BR73853340, that the Defendant, who was a licensed general contractor performing construction services, obtained from the Plaintiff [1]. The Defendant has failed to appear or defend this action, and the Court has granted the Plaintiff's motion for default judgment [9].

Because the Defendant has failed to timely answer or otherwise plead in the instant litigation, the well-pleaded allegations in the Complaint are taken as admitted. *Nishimatsu Const. Co., Ltd. v. Houston Nat'l Bank*, 515 F.2d 1200, 1206 (5th Cir. 1975); *CENTRIA v. Alply Architectural Bldg. Sys., LLC*, No. 4:11-CV-79-CWR-LRA, 2012 WL 73235, at \*4 (S.D. Miss. Jan. 10, 2012) (citation omitted).

Accordingly, the Court finds that the subject Zurich Policy, No. BR73853340, is void under Mississippi law and is hereby rescinded.

THEREFORE, it is hereby ORDERED AND ADJUDGED that the Plaintiff's Complaint for Declaratory Judgment [1] is GRANTED; the subject insurance policy, Zurich Policy No. BR73853340, is VOID under Mississippi law and is RESCINDED, and this case is CLOSED. Costs are ACCESSED to the Defendant; the Plaintiff may move for costs pursuant to L.U.CIV.R.

54(c) within thirty days.

SO ORDERED, this, 15th day of March, 2022.

A handwritten signature in black ink, appearing to read "Sen. H. Davis", written over a horizontal line.

SENIOR U.S. DISTRICT JUDGE